

**REMARKS**

Claims 1-19 and 21-24 are pending. Claims 3-5, 9-19 and 21-24 are allowed. Accordingly, claims 1, 2, and 6-8 are at issue herein.

Initially, the indication that claims 3-5, 9-19 and 21-24 are allowed is noted with appreciation. Further, Applicants, by way of their undersigned attorney, wish to express their appreciation for the courtesies extended during the telephone interview conducted for this application on February 28, 2008.

In the Action, it was indicated that the Declaration is defective, and that a new Declaration is required. Applicants traverse this requirement since the Declaration document was filed with the application unsigned simply to list the persons believed to be the actual inventors (see attached Patent Application Transmittal, filed April 14, 2004 with the subject application). This unsigned Declaration has no bearing on the actual inventorship, and the subsequently filed executed Declaration overrides names of the persons believed to be the actual inventors set forth in the previously filed unexecuted Declaration. In other words, it is the executed Declaration that controls actual inventorship in a patent application. Accordingly, it is believed neither a Petition to Correct Inventorship or a new Declaration ought to be required in the subject application.

Claims 1, 2 and 6 stand rejected in 35 U.S.C. §102(b) as anticipated by EP 565302 to Edwards. Claim 7 stands rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 3,892,313 to Lange. Claim 8 stands rejected under 35 U.S.C. §103(a) as unpatentable over Edwards in view of U.S. Patent No. 6,116,835 to Blacket et al.

The rejections, as they may apply to the claims presented herein, are respectfully traversed.

Claim 1 is directed to a rivet holder including a unitary plate body of a predetermined thickness and having an upper surface and a lower surface spaced by the predetermined thickness of the body. A plurality of rivets have

pre-formed rivet heads including top surfaces thereof. The unitary plate body has a plurality of apertures. Each aperture includes at least one retaining portion of the plate body configured to support and securely hold the rivets depending from the plate body so that the top surfaces of the rivet heads do not project above the upper surface of the plate body and the rivet head top surfaces are closer to the lower surface than the upper surface of the plate body prior to transmission of a drive force to the rivets for releasing the rivets from the plate body.

As discussed with the Examiner, Edwards shows a rivet 4 in FIG. 3 that has already received a drive force to deflect the depending guidance flaps 19 of the tape 1 downwardly. Thus, as agreed with the Examiner, Edwards does not disclose or suggest the arrangement of the rivet head top surface relative to the upper and lower surfaces of the plate body prior to transmission of the drive force to the rivets, as set forth in amended claim 1. Accordingly, it is believed claim 1, and claims 2, 6 and 8 which depend therefrom, are allowable over Edwards.

Claim 7 is directed to a rivet holder and includes, as amended, a unitary plate of a plastic molded material and having an upper surface and a lower surface, and a plurality of rivets having rivet heads including top surfaces and lower surfaces thereof. A plurality of apertures of the unitary plate are configured to support the rivets depending from the plate. The plate includes portions that are molded above and generally below the heads of the rivets in the apertures to capture the heads therein so that the top surfaces thereof do not project above the plate upper surface. As amended, claim 7 further requires the plate portions below the rivet heads include webs about each aperture spaced by a radially enlarged opening between adjacent webs so that the webs engage with the rivet heads from therebelow and against the lower surfaces thereof. Lange does not disclose or suggest the arrangement of the recited rivet heads relative to

the plate upper surface or the arrangement of the recited plate webs relative to the rivet heads, as called for in amended claim 7.

As discussed with the Examiner, Lange discloses a magazine strip 1 having apertures 2 defined by an annular or constant diameter lower projection 7 and upper projections 5 and recesses 6, as can be seen in FIGS. 1 and 2. This is substantially the reverse arrangement called for in claim 7 with respect to the rivet heads and webs. More particularly, claim 7 specifies that the plate webs engage with the rivet heads from therebelow and against the lower surfaces thereof. In the arrangement taught by Lange, the projections 5 corresponding to the recited webs engage against the upper surface of the heads of the ornamental nails 4. Lange teaches that this allows for easier mounting of the ornamental nails in the magazine strip which is of no concern in the rivet holder of claim 7 due to the claimed molding of the plate portions above and generally below the heads of the rivets in the apertures. Further, Lange does not disclose rivets, and Lange also does not show heads of the nails 4 that are captured in the corresponding apertures of the strip 1 so that the top surfaces of the nails do not project above the strip upper surface. Instead, it can be seen very clearly in FIGS. 1 and 3 that the corresponding top surfaces of the nails 4 project beyond the upper surface of the strip. Accordingly, it is believed that claim 7 is allowable over Lange.

Application No.: 10/823,878  
Amendment dated February 28, 2008  
Response to Office Action dated September 28, 2007

Based on the foregoing, reconsideration and allowance of claims 1, 2 and 6-8 are respectfully requested.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Dated: February 28, 2008

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**UTILITY PATENT APPLICATION TRANSMITTAL**

(for Noncontinuing, Nonprovisional Applications  
under 37 C.F.R. §1.53(b))

Attorney Docket No. **78592**

Customer No. **22242**

Mail Stop **PATENT APPLICATION**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing under 37 C.F.R.  
§1.53(b) is the nonprovisional, noncontinuing  
patent application for:

Title: **RIVET COLLATING SYSTEM  
INCLUDING RIVET HOLDER AND  
METHOD OF FORMING THE SAME**

First Named Inventor or Application Identifier:

**Vogrig et al.**

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

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VA 22313-1450.

Ed Price

(Typed or printed name of person mailing)

(Signature of person mailing)

- ☒ 21 pages of the specification (including claims) are enclosed.
- ☒ 7 sheet(s) of drawings are enclosed. ☐ Formal ☒ Informal
- ☐ An executed Oath or Declaration and Power of Attorney naming the actual inventors is enclosed.
- ☒ The names of persons believed to be the actual inventors are set forth in the enclosed unexecuted Oath or Declaration and Power of Attorney (§1.41(a) and §1.53(b)).
- ☐ An Assignment of the invention to \_\_\_\_\_, and cover sheet are enclosed.
- ☐ A check in the amount of \$\_\_\_\_\_ to cover the fee for recording the assignment is enclosed.
- ☐ The Recordation Form Cover Sheet includes authorization to charge our Deposit Account for recording the assignment.
- ☐ A 37 C.F.R. §3.73(b) statement is enclosed where an assignee seeks to take action.
- ☐ An Information Disclosure Statement is enclosed.
- ☐ A Form PTO/SB/08 is enclosed.
- ☐ \_\_\_\_\_ References (copies) listed as foreign patent documents or non-patent literature on Form PTO/SB/08 (37 C.F.R. § 1.98(a)(2)) are enclosed.
- ☒ A Return Receipt Postcard is enclosed (MPEP §503).

- ☐ Priority of application number \_\_\_\_ filed on \_\_\_\_ in \_\_\_\_ is claimed under 35 U.S.C. §119.
- ☐ A certified copy of the priority document is enclosed.
- ☐ A Computer Program Listing Appendix is enclosed.
- ☐ A Transmittal Cover Letter for Computer Program Listing Appendix is enclosed.
- ☐ Two (2) Compact Discs are enclosed.
- ☐ A Nucleotide and/or Amino Acid Sequence Submission is enclosed.
- ☐ A Computer Readable Copy is enclosed.
- ☐ A Paper Copy (Identical to Computer Copy) is enclosed.
- ☐ A Statement Verifying Identity of above Copies is enclosed.
- ☒ The filing fee is calculated below:

Fee Calculation For Claims As Filed

Basic Fee									\$	770.00
Independent Claims	3	-	3	=	0	x	\$	86.00	=	\$ 0.00
Total Claims	27	-	20	=	7	x	\$	18.00	=	\$ 126.00
Fee for Multiply Dependent Claims								\$	290.00	
Total Filing Fee									\$	896.00

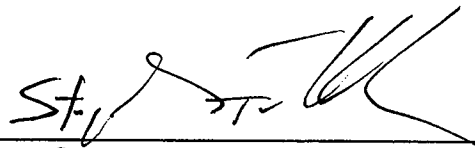
- ☐ Applicant(s) assert entitlement to Small Entity Status (37 C.F.R. § 1.27), reducing the Filing Fee by half to: \$ 0.00
- ☐ A check in the amount of \$\_\_\_\_\_ to cover the filing fee is enclosed.
- ☒ Charge \$ 896.00 to Deposit Account No. 06-1135. (**Trans. Nos. 14942 and 14943**).
- ☐ The payment of the Filing Fee is to be deferred until the Declaration is filed. Do not charge our Deposit Account.
- ☒ A separate written request under 37 C.F.R. §1.136(a)(3), which is a general authorization to treat any concurrent or future reply requiring a petition for an extension of time under 37 C.F.R. §1.136(a) for its timely submission as incorporating a petition for an extension of time for the appropriate length of time, is enclosed.
- ☒ The Director is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, the Director is authorized to charge the unpaid amount to Deposit Account No. 06-1135. This sheet is filed in triplicate.

☐ Also enclosed:

☒ Address all future communications to CUSTOMER NUMBER 22242.

4/14/04

Date

  
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